

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Dennis DeJoode,**  
Petitioner-Appellants,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1315**  
**Parcel No. 080/07803-000-000**

On October 13, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Dennis DeJoode, requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney Anastasia Hurn as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Dennis DeJoode, owner of property located at 1904 23rd Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified as residential for the January 1, 2009, assessment and valued at \$48,100 representing \$7600 in land value and \$40,500 in the improvement value.

DeJoode protested to the Board of Review on the ground the property assessment was not equitable compared to the assessment of like properties in the taxing jurisdiction under Iowa Code 441.37(1)(a); was assessed for more than authorized by law under section 441.37(1)(b); and there was an error in the assessment under section 441.37(1)(d). The specific error he claimed was the property should have a lower assessed value because of its condition, a comparable property at 1910 22nd had

no change in value, and the economy has declined. He stated the property does not deserve a 4.5% increase. He claimed that \$46,000; allocated \$7200 to land and \$38,800 to the dwelling was the actual value and a fair assessment of the property. The Board of Review denied the petition.

DeJoode then filed his appeal with this Board and claimed an error in the assessment and that there has been a downward change in value of the property. The error he claimed is essentially that the subject property is over-assessed. Furthermore, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and instead consider the claim of over-assessment.

According to the property record card, the subject property consists of a one-story dwelling having 860 total square feet of living area, a full unfinished basement with 844 square feet, and a detached 216 square-foot garage. The dwelling was built in 1920 and has a 5+10 quality grade, 20% functional obsolescence, and 56% physical depreciation. The dwelling is situated on 0.122 acres.

DeJoode testified the subject property is located in a run-down neighborhood with many of the properties in disrepair. DeJoode questions the 4% to 4.5% increase in his assessment when he observes substantial decline since the last reassessment. DeJoode stated the subject property is in poor condition. It rents for \$400 per month, and the basement is in poor condition with wet and bowing walls. DeJoode also stated that he has issue with tenant retention and delinquent rent.

Michael Swaim of Swaim Appraisal Services in West Des Moines completed an appraisal of the property. The sales price of the comparables ranged from \$39,000 to \$59,900. Swaim made adjustment for location, condition, bedrooms, and other amenities. Net adjusted sales prices ranged from \$47,200 to \$61,200. Swaim's final estimate of value for January 1, 2009, based on the sales comparison approach, was \$53,000. Swaim also completed an income approach to value using a gross

rent multiplier based on market rent of \$600. His final estimate of value based on the income approach was \$48,000.

Swaim's final estimate of value for the subject property is \$51,000 as of January 1, 2009. The subject property is assessed at \$48,100, below Swaim's opinion of value.

Reviewing all the evidence, we find the preponderance of evidence does not support DeJoode's contention the subject property is assessed for more than authorized by law. We find the Swaim appraisal provides credible evidence of the fair market value of the subject property and supports the January 1, 2009, assessment.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*



If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

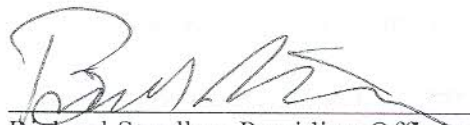
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). DeJoode failed to prove by a preponderance of evidence that the subject property is assessed for more than authorized by law. To the contrary, the Swaim appraisal supports the assessment as accurately reflecting the property's fair market value.

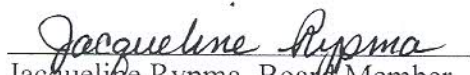
Viewing the evidence as a whole, we determine that substantial evidence was lacking to support DeJoode's claim the property was assessment for more than authorized by law as of January 1, 2009. Therefore, we affirm the DeJoode property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$48,100.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 14 day of December 2010.

  
Richard Stradley, Presiding Officer

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 12-14, 2010

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier  
☐ Certified Mail ☐ Other

Signature

*[Handwritten Signature]*